In the High Court of Judicature at Madras

Dated: 12.04.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice J.A.K.SAMPATH KUMAR

Writ Appeal No.314 of 1999

P.J.Shyamala ..Appellant

..vs..

1. M/s.Prasanna Vinayakar Temple,
   rep.by its Trustees,
   i. Vinayagam
   ii. Gnanasundaram
   iii. Ayyavoo

2. The Commissioner,
   Corporation of Chennai,
   Rippon Buildings,
   Madras-3. .Respondents

Writ Appeal filed under Clause 15 of the Letters of Patent against the order of the learned Judge Mr.S.Jagadeesan, dated 17.02.1999 made in W.P.No.19585 of 1998 presented to this Court under Article 226 of the Constitution of India to issue a writ of Mandamus directing the first respondent to remove the unauthorised construction and occupation by the 2nd respondent in D.No.94, Choolai High Road, Choolai, Chennai.

For Appellant : Mr.R.Mohan

For Respondents : Mr.M.Venkatachalapathy,
Senior Counsel for Mr.Sriram for R1

No appearance for R2

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.,)

The Writ Appeal has been filed against the order of the learned single Judge dated 17.02.1999 made in W.P.No.19585 of 1998, in and by

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which, the learned Judge, after finding that the writ petitioner – Prasanna Vinayagar Temple, the owner of the building must have been heard by the authority, viz., the Commissioner, Corporation of Chennai, while deciding the application filed by the second respondent – appellant herein for regularisation of the building.

2. Heard the learned counsel for the appellant as well as the first respondent.

3. On going through the reasoning of the learned Judge, we do not find any ground for interference. As rightly observed by the learned Judge, the appellant being a lessee, has to obtain consent of the landlord – writ petitioner – Prasanna Vinayagar Temple for additional construction or for any alteration in the physical features. In such circumstance, the learned Judge rightly directed the Commissioner, Corporation of Chennai to issue notice to the writ petitioner – Prasanna Vinayagar Temple and dispose of the application for regularisation, after hearing both parties. We are satisfied that the course adopted by the learned Judge cannot be faulted with. On the other hand, the same is in accordance with law.

4. Though the learned counsel appearing for the appellant submitted that observation in para 7 of the order is not warranted, in view of the fact that the conclusion of the learned Judge and ultimate direction are in consonance with the established principles, we are not inclined to interfere with the same. Accordingly, the writ appeal fails and the same is dismissed. No costs.

gl

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Madras-3.
1 cc to Mr.R.Mohan, Advocate, SR.18237
1 cc to Mr.M.Sriram, Advocate, SR.18399
vc (co)

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